

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Amendment of Part 22 of the Commission's |) | |
| Rules to Benefit the Consumers of Air-Ground |) | WT Docket No. 03-103 |
| Telecommunications Services |) | |
| |) | |
| |) | |
| Biennial Regulatory Review—Amendment of |) | |
| Parts 1, 22, and 90 of the Commission's Rules |) | |

**OPPOSITION OF CTIA – THE WIRELESS ASSOCIATION™
TO SPACE DATA PETITION FOR RECONSIDERATION**

CTIA – The Wireless Association™,¹ pursuant to Section 1.429 of the Commission's Rules,² hereby submits its opposition to the Petition for Clarification and Reconsideration filed by Space Data in the above captioned docket.³ CTIA opposes Space Data's request that the Commission allow air-to-ground (ATG) operators to provide terrestrial services on a secondary basis in the ATG band. Permitting terrestrial operation in the ATG band is inappropriate because it creates the potential for interference with current terrestrial 800 MHz operators, a result the Commission should avoid given the documented interference problems in the 800 MHz band. This is especially true since the 800 MHz rebanding process

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. CTIA membership covers Commercial Mobile Radio Service ("CMRS") providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² 47 C.F.R. § 1.429 (2004).

³ Petition for Clarification and Reconsideration, Space Data, WT Docket No. 03-103, File No. 0001716212 (filed May 13, 2005) ("*Space Data Petition*").

is only now commencing.

I. INTRODUCTION AND SUMMARY

In the Report and Order in this docket, the Commission reached the correct decision “not to permit a licensee to provide ancillary land mobile or fixed services in the 800 MHz air-ground spectrum,” because of the limited amount of ATG spectrum and the potential for interference to adjacent bands.⁴ As the Commission knows, the 800 MHz band has been the subject of significant debate regarding interference between existing operators, especially between commercial cellular/SMR providers and Public Safety licensees. Only recently, after an expenditure of significant Commission resources, has a solution started to be implemented through a Commission-mandated rebanding process.⁵

Given this recent history, the Commission should not create the possibility of new interference by allowing a new terrestrial service to operate in the band. While Space Data may contemplate a band configuration that it believes possibly could avoid interference problems with cellular, it could cause interference problems with other adjacent services in the band or with other ATG licensees. Space Data has provided no new, compelling data or information that demonstrates that existing adjacent channel licensees in the 800 MHz band would be protected from interference. As such, the Commission should affirm its decision in the *Order* to prohibit ancillary terrestrial operation in the ATG band to avoid both further

⁴ Amendment of Part 22 of the Commission’s Rules to Benefit the Consumers of Air-Ground Telecommunications Services, Report and Order and Notice of Proposed Rulemaking, WT Docket Nos. 03-103, 05-42, File No. 0001716212, ¶ 53 (rel. Feb. 22, 2005) (“Order”).

⁵ See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969 (2004) as amended by *Erratum*, DA 04-3208, 19 FCC Rcd 19651 (2004) and *Erratum*, DA 04-3459, rel. Oct. 29, 2004 (800 MHz R&O); Improving Public Safety Communications in the 800 MHz Band, *Supplemental Order and Order on Reconsideration*, WT Docket 02-55, ET Docket No. 00-258, RM-9498, RM-10024, ET Docket No. 95-18, FCC 04-294 (rel. Dec. 22, 2004).

interference in the 800 MHz band and any delay in the 800 MHz rebanding.

II. THE COMMISSION ACCURATELY EXAMINED THE RECORD IN THE ATG PROCEEDING, WHICH DEMONSTRATED THAT TERRESTRIAL SERVICES OPERATING IN THE ATG BAND DO NOT MAKE SENSE AND WILL CAUSE HARMFUL INTERFERENCE TO ADJACENT CHANNEL OPERATIONS

The Commission's decision to forbid terrestrial operation in the ATG band was fully supported by the record. The technical studies, comments, and *ex partes* submitted by a number of parties, including Motorola,⁶ Cingular,⁷ Sprint,⁸ CTIA,⁹ and Nextel,¹⁰ clearly demonstrated that terrestrial operations in the ATG band will cause harmful interference to the airborne operations of air-to-ground licensees and to existing wireless communications licensees in the adjacent bands. These include Public Safety licensees as well as commercial cellular and SMR operators.

The Commission's decision to protect adjacent channel licensees from interference

⁶ Comments of Motorola, Inc., WT Docket No.03-103, 6-10 (filed Sept. 23, 2003) (stating that "the FCC must move especially cautiously considering that the adjacent allocations to the air-ground service are used by public safety agencies, other private wireless services including the critical infrastructure industries, and commercial carriers").

⁷ Comments of Cingular Wireless LLC, WT Docket No.03-103, 6-10 (filed Sept. 23, 2003) (noting that "there are serious interference concerns arising from concurrent terrestrial and airborne use of the same spectrum").

⁸ Letter from Luisa L. Lancetti, Vice President, Wireless Regulatory Affairs, Sprint, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated Dec. 3, 2004 ("[t]he mixture of an [Ancillary Terrestrial Service] and ATG service implicates interference and other issues not adequately addressed by the docket and submissions made").

⁹ Letter from Christopher Guttman-McCabe, Assistant Vice President, Regulatory Policy and Homeland Security, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated Dec. 3, 2004 ("[a]dding an ancillary terrestrial service to this band does not make sense").

¹⁰ Letter from Trey Hanbury, Senior Counsel, Nextel Communications, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated Dec. 8, 2004 (noting that "Nextel does not believe that ancillary terrestrial uses are feasible in the complex interference environment in the 800 MHz ATG band").

from ancillary terrestrial ATG use was appropriate given the record in the proceeding as well as the limited amount of spectrum available for air-to-ground services. Additionally, as shown below, the Commission's action also was correct given the ongoing rebanding activities in the 800 MHz band.

Finally, unlike in the case of the MSS proceeding, where the ancillary terrestrial service being contemplated was to enhance a ground-to-ground service, this ATG spectrum was not allocated for ground-to-ground communications. The ancillary terrestrial service, as contemplated by Space Data, would in essence be a whole new stand-alone terrestrial service, unlike the ATC authorized by the Commission in the mobile satellite service proceeding. The Commission correctly concluded in the Air-to-Ground Order that this band was not the proper place for such a terrestrial service.

III. INTRODUCING ATG TERRESTRIAL OPERATIONS INTO THE 800 MHZ BAND WILL ONLY INCREASE THE COMPLEXITY OF THE REBANDING PROCESS AND MAY ELIMINATE THE POSITIVE EFFECTS OF THE REBANDING

The 800 MHz band continues to be in a state of flux as the Commission-mandated rebanding commences on June 27 with the start of the first wave of Public Safety licensee relocations.¹¹ In establishing the rebanding plan, the FCC did not take into consideration the presence or effect of terrestrial operations in the adjacent ATG band, since such operations were not authorized at the time. As evidenced above, terrestrial operations in the ATG band could create new interference to the 800 MHz licensees that are currently in the middle of a complex rebanding that is itself intended to eliminate interference. Moreover, Space Data has

¹¹ *Wireless Telecommunications Bureau Announces that 800 Mhz Band Reconfiguration will Commence June 27, 2005, in the NPSPAC Regions Assigned To Wave 1 and Specifies 800 Mhz Reconfiguration Benchmark Compliance Dates*, WT Docket No, 02-55, DA 05-1546 (rel. May 27, 2005).

provided no new evidence to suggest that terrestrial ATG operations will not cause new interference to these operators. Therefore, granting Space Data's petition could upset the delicate balance established by the Commission in the 800 MHz rebanding, possibly rendering moot the rebanding process by introducing new interference.

IV. SPACE DATA'S UNSUPPORTED ALLEGATIONS ABOUT RURAL WIRELESS DEPLOYMENT AND PUBLIC SAFETY REQUIREMENTS ARE INACCURATE

Space Data argues, without any basis, that "the likelihood that wireless service will become widely available in rural and underserved areas is small because traditional wireless carriers have determined that ubiquitous deployment of terrestrial infrastructure in those areas is not cost effective given the sparse population."¹² Space Data further alleges that "wireless access is particularly important in rural areas for public safety and the need will be more acute after the sunset of Analog Mobile Phone Systems now scheduled for February 2008."¹³

These arguments, without any supporting documentation, are not supported by the facts. CTIA's members provide wireless service to more than 180 million Americans across the country. Wireless customers exist throughout the geography of the United States and are provided service in many of the Nation's most remote locations. Space Data argues that infrastructure costs for wireless providers are insurmountable, yet cites to the service provided today on the existing wireless analog network and the removal of the analog requirement as evidence of the need for Space Data's service. These circular arguments made by Space Data should be rejected.

Initially, CTIA's members have built out their networks to provide wireless service to remote and underserved areas. There should be no doubt that either the legacy analog

¹² See *Space Data Petition* at 5.

¹³ *Id.*

networks will continue or, more likely, these same systems will be upgraded to digital architecture. The great majority of the costs associated with supplying coverage to these areas, spectrum acquisition, site acquisition, and construction of tower/antenna facilities, already have been spent. The addition of digital technology to these sites would entail less expense than the initiation of service contemplated by Space Data to provide an “ancillary” terrestrial service to these areas. Furthermore, the “sunset” of the analog requirement only dictates that wireless carriers are no longer *required* to support analog networks.¹⁴ The FCC has not legislated the end of the analog networks in any fashion and wireless carriers, to the extent they determine it is in the public interest, are permitted to maintain and continue the provision of analog networks wherever desired.

Space Data also argues that “public safety personnel in rural areas require quality wireless services to perform their duties.”¹⁵ CTIA agrees. However, as described above, the “service” that Space Data desires to deploy imprudently risks interfering with 800 MHz public safety operations. As such, Space Data’s proposal would not further the efforts of public safety in rural markets; rather, it would threaten to harm their communications networks. CTIA urges the Commission to affirm its decision to not allow ancillary terrestrial use of ATG spectrum.

V. CONCLUSION

The Commission made the correct determination not to authorize ancillary terrestrial operations in the air-to-ground band, since such use could cause interference to licensees in the adjacent band and could further complicate an already complex rebanding process. The record supports this decision and Space Data has provided no new evidence that warrants

¹⁴ See 22.901(b).

¹⁵ *Id.* at 6.

reconsideration. Therefore, the Commission should reject Space Data's petition to the extent that it requests that the Commission permit ancillary terrestrial service in the ATG band.

Respectfully submitted,

CTIA

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